

REMARKS

Claims 1-17 stand rejected. No claims are added or canceled by amendment. Accordingly, claims 1-17 are at issue.

Claims 1-4, 8 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Gaillard, U.S. Pub. No. 20030028458. The filing date for the present application is July 10, 2000. the filing date for Gaillard is more than two years later, September 27, 2002. Accordingly, Gaillard is not prior art under § 102(e). Gaillard has not been shown to be entitled to a section 102(e) date earlier than September 27, 2002.


There are circumstances where a publication may be entitled to an earlier priority date as its Section § 102(e) date, but these circumstances do not appear to be met here (see MPEP § 706.02 (f)(1)). For example, Gaillard is a continuation-in-part of a PCT application. (PCT/IB01/00354). The written description of the PCT application that corresponds to this number is not in the English language. See WO 02/01521 A1 (attached). Accordingly, Gaillard has not been shown to rely on a prior application that properly supports the subject matter used to make the rejection (MPEP § 706.02 (f)(1)(B)), and the international application has not been shown to be published in English (MPEP § 706.02 (f)(1)(C)(1)(e)). Accordingly, Gaillard is not properly asserted under § 102(e), and all rejections based on this publication should be withdrawn. In particular, the rejections to claims 1-4 and 8 should be withdrawn.

Claims 4-7, 9-11, 12-15, 16, and 17 also stand rejected under 35 U.S.C. § 103 based on combinations of Gaillard with one or more other publications or patents. All of these rejections should be withdrawn, for the reasons given above, i.e., Gaillard is not properly asserted as prior art under 102 (e).

Applicant respectfully submits that the claims are in condition for allowance, and such action is earnestly submitted. If the Examiner find that there are any outstanding issues which may be resolved by a telephone interview, the Examiner is invited to contact the undersigned at the below listed number.

Respectfully submitted,

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